

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE:	)	
	)	Case No.08-31353
DURACO PRODUCTS, INC.,	)	Chapter 7
	)	Judge Eugene R. Wedoff
Debtor.	)	

**NOTICE OF MOTION**

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on the 6<sup>th</sup> day of April, 2010, at the hour of 10:00 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Eugene R. Wedoff, Bankruptcy Judge, in Room 744 in the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, or before any other Bankruptcy Judge who may be presiding in his place and stead, and shall then and there present the **Motion of Trustee to Compel Debtor to File Final D.I.P. Report, Compel Attorneys for Debtor to Turnover All Records of Debtor to Trustee**, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an order in compliance therewith. At said time and place you may appear if you so see fit.

\_\_\_\_\_  
/s/Eugene Crane  
CRANE, HEYMAN, SIMON, WELCH & CLAR  
135 South LaSalle Street  
Chicago, Illinois 60603-4297  
(312) 641-6777

**CERTIFICATE OF SERVICE**

The undersigned, being first duly sworn on oath deposes and states that a copy of the foregoing Notice and Motion was caused to be served electronically or via U.S. First Class Regular Mail on all parties on the attached service list, properly addressed and postage prepaid on the 26th day of March, 2010, before the hour of 5:00 p.m.

\_\_\_\_\_  
/s/Eugene Crane

**SERVICE LIST**

**Parties served through the Court's Electronic Notice for Registrants:**

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FOR THE NORTHERN DISTRICT OF ILLINOIS  
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IN RE:	)	
	)	Case No.08-31353
DURACO PRODUCTS, INC.,	)	Chapter 7
	)	Judge Eugene R. Wedoff
Debtor.	)	

**MOTION OF TRUSTEE TO COMPEL DEBTOR TO FILE FINAL D.I.P.  
REPORT, COMPEL ATTORNEYS FOR DEBTOR TO TURNOVER  
ALL RECORDS OF DEBTOR TO TRUSTEE**

TO THE HONORABLE Eugene R. Wedoff, Bankruptcy Judge:

EUGENE CRANE, Trustee in the above-entitled case, moves this Court for an Order compelling Debtor to file its Final Debtor-in-Possession Report and to appear by its proper officer to testify under oath regarding the business records and affairs of the Debtor, and for turnover of all records of the Debtor in its possession, or in possession of its respective counsel, pursuant to 11 U.S.C. §542(e), 11 U.S.C. §521(2)(C)(4), Rule 1019(5)(A) of the Rules of Bankruptcy Procedure, and in support thereof states the following:

1. This proceeding was initiated by the filing of a Voluntary Petition for Reorganization on November 18, 2008.
2. Debtor's counsel at the time of filing was Keevan Morgan of Morgan and Bley, 900 W. Jackson Blvd., Chicago, Illinois.
3. Debtor secured and retained successor counsel on December 30, 2009 in the firm of Arnstein & Lehr, 120 S. Riverside Plaza, Chicago, Illinois.
4. Debtor continued to operate its business until February 17, 2010, when an order of this Court converted the proceeding to a case under Chapter 7 of the Bankruptcy Code, and

Eugene Crane was appointed interim trustee. After the meeting of creditors Eugene Crane remained as the Chapter 7 Trustee.

5. Debtor has failed to file the necessary reports and information required after conversion of the case. Federal Rules of Bankruptcy Procedure 1019(5)(A)(i)(ii) provides:

- (i) not later than 14 days after the conversion of the case, file a schedule of unpaid debts incurred after the filing of the petition and before conversion of the case, including the name and address of each holder of a claim; and
- (ii) not later than 30 days after conversion of the case, file and transmit to the United states trustee a final report and account.

Thirty seven (37) days have passed since the conversion of the case and no reports have been filed by the Debtor.

6. The initial 341 meeting was held on March 22, 2010 and due to the large number of creditors and employees was continued to March 25, 2010 at the office of the Trustee, but was changed to the office of the U.S. Trustee to accommodate the expected large number of persons.

7. The original continued date was March 26, 2010, but was changed to accommodate personal counsel for the Debtor's president, Kevin Lynch, to one day earlier, March 25, 2010 at 2:00 p.m.

8. On March 25, 2010, no officer, designated party or other person appeared to testify (See transcript attached hereto as **Exhibit A**).

9. The Trustee requested that attorneys for the Debtor turnover to the Trustee all of Debtor's files, correspondence, emails and/or other materials, pursuant to Trustee's waiver of any privilege pursuant to *Commodity Futures Trading Com'n v. Weintraub*, 105 S.Ct. 1986

(1985) and *In re Highland Park Associates Limited Partnership, et al.*, 132 B.R. 358 (N.D.Illinois E.D. 1991).

10. The Trustee has not received the reports required under F.R.B.P. 1019(5)(A) nor any of the records of the debtor-in-possession of its attorneys, Arnstein & Lehr or its prior attorneys, Keewan Morgan, Morgan and Bley, Ltd.

11. The Trustee has not received bank account records, statements and checks in possession of its president, Kevin Lynch, as promised to the Trustee at the initial 341 meeting on March 22, 2010.

WHEREFORE, the Trustee prays for the entry of an Order:

- A) Requiring Debtor, Duraco Products, Inc., to file the required Rule 1019 reports forthwith;
- B) Requiring Debtor's president, Kevin Lynch, to turnover and deliver to the Trustee the box or boxes of Debtor's bank statements and checks and any other records of the Debtor in his possession forthwith;
- C) To order Debtor's respective counsel, Keewan Morgan of Morgan and Bley and Arnstein and Lehr to turnover and deliver to the Trustee any and all Debtor's files, records, correspondence, emails, or materials of any nature to the Trustee forthwith; and
- D) To order Debtor to provide an appropriate officer or designated party to testify at examination pursuant to Rule 2004 at a specific date, time and location.

Respectfully submitted,

/s/Eugene Crane  
EUGENE CRANE, Trustee

**TRUSTEE'S COUNSEL:**

EUGENE CRANE

(Atty. No. 0537039)

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